

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:	) Confirmation No.: 4788
Yuji IWAKI et al.	) Examiner: Michael H. Wilson
Serial No. 10/577,471	) Group Art Unit: 1794
Filed: April 27, 2006	)
For: COMPOSITE MATERIAL, LIGHT	)
EMITTING ELEMENT AND LIGHT	)
EMITTING DEVICE	)

**SUBMISSION OF VERIFIED ENGLISH TRANSLATION**

Honorable Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Further to the *Amendment* filed on April 14, 2010, in order to overcome the rejection based on WO 2005/031798 to Ikeda, a verified English translation of priority application JP 2005-085056 filed March 23, 2005, is submitted herewith. Since Ikeda has an international filing date of September 24, 2004, and an international publication date of April 7, 2005, Ikeda is only potentially available as prior art under § 102(e). However, Ikeda, as a commonly owned reference under § 102(e), may not be considered for a rejection under § 103. Subject matter developed by another, which qualifies as prior art only under one or more of subsections 35 U.S.C. §§ 102(e), (f) and (g), is not to be considered when determining whether an invention sought to be patented is obvious under 35 U.S.C. § 103, provided the subject matter and the claimed invention were commonly owned at the time the invention was made. See MPEP § 2146. Since the disclosure by Ikeda and the claimed invention of the present application were, at the time the invention was made, subject to an obligation of assignment to Semiconductor Energy Laboratory Co., Ltd., Ikeda may not be

considered for a rejection under § 103. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) are in order and respectfully requested.

Respectfully submitted,



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